
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 100

**The Rural Development Contracts (Rural
Priorities) (Scotland) Regulations 2008**

Change of occupation of land

13.—(1) Where during the relevant period of an undertaking, there is a change of occupation of all or any part of the land to which that undertaking relates, subject to the provisions of this regulation, the Scottish Ministers shall accept an undertaking from the new occupier.

(2) Where such a change of occupation occurs the former occupier (or, if that occupier has died, the occupier's executors) must within 3 months notify the Scottish Ministers in writing of the change of occupation, and must supply to the Scottish Ministers such information relating to that change in such form and within such period as the Scottish Ministers may determine.

(3) A new occupier of all or any part of the land who wishes to take on the undertaking, or a landlord who has undertaken jointly with the tenant, to assume any undertaking and who becomes a new occupier when the tenancy ends, must furnish the Scottish Ministers with such information in such form and within such period following the change of occupation as the Scottish Ministers may determine.

(4) A new occupier of all or any part of the land may take on the undertaking where the Scottish Ministers are satisfied that—

- (a) the former occupier had complied with the undertaking to the date of the change of occupation; and
- (b) the new occupier is the lawful occupier of the land and has since the date of the change of occupation complied with the undertaking.

(5) A new occupier of all or any part of the land or, as the case may be, the former occupier of all or any part of the land may take on the undertaking insofar as it extends to that part of the land which that person occupies, or as the case may be continues to occupy, where the Scottish Ministers are satisfied that—

- (a) such new occupier or, as the case may be, such former occupier of all of the land, is the lawful occupier of the part of the land which that person occupies and has since the date of change of occupation complied or, as the case may be, continued to comply with the undertaking insofar as it extends to the part of the land which that person occupies; and
- (b) it is reasonable for the occupier to do so having regard to the activities included in the undertaking and the part of the land which is occupied by the new occupier or, as the case may be, continues to be occupied by the former occupier of all the land.

(6) Where an undertaking specifies activities under area related options and where, during the period of an undertaking, an occupier increases the area of their landholding the occupier must comply with the relevant compliance requirements as regards the increased area of landholding and, if the occupier wishes the undertaking to also apply to the increased area of landholding, the occupier must submit to the Scottish Ministers an application for aid in accordance with regulation 3.

(7) Where occupation of the land is divided, the Scottish Ministers shall determine—

- (a) the extent to which the activities included in the undertaking relate to any part of the land occupied by a new occupier or, as the case may be, the former occupier of all the land; and
- (b) the proportion, if any, of any payments which would be payable under paragraph (8) for the remainder of the period of the undertaking in respect of that part of the land.

(8) Where the Scottish Ministers are satisfied as specified in paragraph (4), they shall, subject to regulation 4, make payments for the remainder of the period of the undertaking to the new occupier of the land who has taken on the undertaking.

(9) Where the Scottish Ministers are satisfied as to the matters specified in paragraph (5), they shall, subject to regulation 4, make payments of such proportion, if any, as they have determined under paragraph (7) are due for the remainder of the period of the undertaking to the new occupier or, as the case may be, former occupier of all the land who has taken on the undertaking.

(10) Where within 3 months from the date of change of occupation the undertaking has not been taken on in accordance with paragraph (4) or, as the case may be, paragraph (5), the Scottish Ministers may—

- (a) withhold the whole or any part of any payment under these Regulations due to the former occupier in respect of the undertaking; and
- (b) recover from the former occupier, or make a claim in the former occupier's executry, for the whole or any part of any payment made under these Regulations already made to that person in respect of the undertaking.

(11) In the application of this regulation to a common grazing "change of occupation" includes the apportionment to a crofter of any land from the common grazing during the period of the undertaking but does not include a change in the membership of the grazings committee.

(12) The provisions of this regulation are, insofar as the aid paid under these Regulations includes aid under Council Regulation 1698/2005, subject to Articles 44 and 45 (transfer of holding) and Article 47 (force majeure or exceptional circumstances) of Commission Regulation 1974/2006, and where a beneficiary is required to reimburse the aid paid, interest shall be payable thereon at the rate calculated in accordance with that provided in regulation 19.